

JOURNAL OF THE SENATE

NINETY-FIRST SESSION

SEVENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, January 21, 2016

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Denny Davis, followed by the Pledge of Allegiance led by Senate page Sarah McClure.

Roll Call: All members present except Sens. Curd, Peters, Sutton and Tiedemann who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the sixth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Gary Cammack, Chair

Which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 30, 31, and 33 and returns the same with the recommendation that said bills do pass and be placed on the consent calendar.

Respectfully submitted,
Craig Tieszen, Chair

MESSAGES FROM THE HOUSE

MR. PRESIDENT:

I have the honor to transmit herewith HB 1002, 1018, 1019, 1020, 1026, and 1028 which have passed the House and your favorable consideration is respectfully requested.

Also MR. PRESIDENT:

I have the honor to transmit herewith HCR 1001 which has been adopted by the House and your concurrence is respectfully requested.

Respectfully,
Arlene Kvislen, Chief Clerk

MOTIONS AND RESOLUTIONS

SCR 1 Introduced by: Senators Rusch, Bradford, Frerichs, Peterson (Jim), Soholt, and Tieszen and Representatives Ring, Bartling, Bordeaux, Feickert, Gibson, Hawks, Hawley, Killer, Kirschman, McCleerey, Rasmussen, Schoenfish, Schrempp, Soli, and Verchio

A CONCURRENT RESOLUTION, To show support for family caregivers.

WHEREAS, family caregivers play a vital role in enabling frail seniors, people with serious health challenges, people with special needs, and others requiring assistance with activities of daily living to remain in their homes; and

WHEREAS, enabling people to remain at home for as long as possible is both more compassionate and more affordable than institutional care, which comes at a high cost, often supported by taxes; and

1 WHEREAS, in South Dakota, 84,600 family caregivers provide 79 million hours of care,
2 an estimated economic value of \$1.03 billion, valued at \$13.12 per hour; and

3 WHEREAS, by 2025, South Dakotans attaining the age of 65 will increase by
4 approximately 100,000, making up over twenty percent of the population in all but nine
5 counties. In eleven counties, they will make up over forty percent of the population; and

6 WHEREAS, over thirty percent of adults age 60 and above have one or more disabilities,
7 including disabilities that affect self care; and

8 WHEREAS, medical advances allow millions to live much longer with chronic illnesses,
9 increasing the requirement for caregiving; and

10 WHEREAS, the stress imposed on families by caregiving is a health risk factor that
11 warrants attention as a public health issue; and

12 WHEREAS, caregiving imposes significant financial burdens on both caregivers and
13 employers, affecting the economy and contributing to the impoverishment of families; and

14 WHEREAS, nationally, caregiver services were valued at \$470 billion per year in 2013; and

15 WHEREAS, the Alzheimer's Association estimates that one in nine Americans aged 65 and
16 older are affected with the condition:

17 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-First Legislature of
18 the State of South Dakota, the House of Representatives concurring therein, that we recognize
19 and support the important role that family caregivers play in South Dakota; that we support
20 policies and initiatives to provide the support and training needed to make family caregiving
21 more feasible, affordable, and effective; that we encourage efforts at the state and county level
22 to analyze population demographic trends to determine both current and future service
23 requirements for care recipients and caregivers, and to permit data-driven policy and program
24 recommendations about our aging populations and the workforce development needed to
25 empower those who need care to heal, age, and live in place; that we encourage employers to
26 establish policies that recognize the impact that caregiving can have on workers, and encourage
27 employers to find ways to support their workers during difficult family times; and that we
28 encourage the creation of volunteer caregiver corps, to provide nonmedical assistance and
29 companionship to frail elders at no public expense.

30 Was read the first time, the President waived the referral to committee, and placed SCR 1
31 on the calendar of Friday, January 22nd, the 8th legislative day.

32 HCR 1001: A CONCURRENT RESOLUTION, Recognizing the outstanding public
33 service of President Harry Truman.

34 Was read the first time, the President waived the referral to committee, and placed
35 HCR 1001 on the calendar of Friday, January 22nd, the 8th legislative day.

1 Sen. Brown moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
2 Friday, January 22nd, the 8th legislative day.

3 Which motion prevailed.

4 **CONSIDERATION OF REPORTS OF COMMITTEES**

5 Sen. Brown moved that the reports of the Standing Committees on
6 Local Government on SB 2 as found on page 82 of the Senate Journal; also
7 State Affairs on SB 50 as found on page 83 of the Senate Journal; also
8 Taxation on SB 53 as found on page 83 of the Senate Journal be adopted.

9 Which motion prevailed.

10 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

11 SB 57 Introduced by: Senators White, Novstrup (David), Parsley, Peterson (Jim),
12 Rampelberg, Sutton, and Vehle and Representatives Willadsen, Bartling, Conzet, Hawley,
13 Langer, Mickelson, Rounds, and Wiik

14 FOR AN ACT ENTITLED, An Act to redefine the term, written agreement, relating to
15 contracts between a debtor and creditor.

16 Was read the first time and referred to the Committee on Commerce and Energy.

17 SB 58 Introduced by: Senators Frerichs, Olson, Peterson (Jim), and Rusch and
18 Representatives Werner, Gibson, May, and Schrempp

19 FOR AN ACT ENTITLED, An Act to revise certain restrictions for the use of night-vision
20 equipment for hunting under certain conditions.

21 Was read the first time and referred to the Committee on Agriculture and Natural
22 Resources.

23 SB 59 Introduced by: Senator Vehle and Representative Duvall

24 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the application
25 of the special annual road funding levy.

1 Was read the first time and referred to the Committee on Transportation.

2 SB 60 Introduced by: Senators Olson, Curd, Ewing, Greenfield (Brock), Jensen (Phil),
3 Monroe, Omdahl, and Rampelberg and Representatives Marty, Campbell, Latterell, May,
4 Qualm, Schaefer, Verchio, and Zikmund

5 FOR AN ACT ENTITLED, An Act to set daylight savings time as the permanent year-
6 round time for the state of South Dakota.

7 Was read the first time and referred to the Committee on Commerce and Energy.

8 SB 61 Introduced by: Senators Olson, Cammack, Curd, Ewing, Frerichs, Greenfield
9 (Brock), Jensen (Phil), Monroe, Peterson (Jim), Rampelberg, and Shorma and Representatives
10 Brunner, Campbell, Craig, Greenfield (Lana), Marty, May, Schrempp, and Verchio

11 FOR AN ACT ENTITLED, An Act to prohibit the cancellation or nonrenewal of
12 homeowner insurance policies for certain claims arising from natural causes.

13 Was read the first time and referred to the Committee on Commerce and Energy.

14 SB 62 Introduced by: Senators Olson, Curd, Frerichs, Greenfield (Brock), Jensen (Phil),
15 Monroe, Peterson (Jim), and Rampelberg and Representatives Qualm, Brunner, Craig,
16 Greenfield (Lana), Klumb, Marty, May, Russell, Schrempp, Verchio, and Wiik

17 FOR AN ACT ENTITLED, An Act to require manufacturers of farm machinery and
18 equipment to replace the machinery or equipment or to refund its purchase price if it fails to
19 conform to the manufacturer's warranty, to specify the manufacturer's obligations to remedy any
20 nonconforming conditions, and to provide cause of action against the manufacturer for failure
21 to comply.

22 Was read the first time and referred to the Committee on Commerce and Energy.

23 SB 63 Introduced by: Senators Tidemann, Frerichs, Heinert, Novstrup (David), Parsley,
24 and Solano and Representatives Munsterman, Bartling, Brunner, Dryden, Gosch, Hawley,
25 Jensen (Alex), Kirschman, Langer, and Schrempp

26 FOR AN ACT ENTITLED, An Act to require the development of school safety plans and
27 to require the conduct of lockdown drills in accredited schools.

28 Was read the first time and referred to the Committee on Education.

1 SB 64 Introduced by: Senators Fiegen, Ewing, Omdahl, Otten (Ernie), Peters, Soholt, and
2 Tieszen and Representatives Hawks, Campbell, Heinemann (Leslie), Stalzer, and Steinhauer

3 FOR AN ACT ENTITLED, An Act to revise the voting authority of an alderman.

4 Was read the first time and referred to the Committee on Local Government.

5 SB 65 Introduced by: Senators Fiegen, Ewing, Omdahl, Otten (Ernie), Peters, Solano,
6 Tieszen, and White and Representatives Hawks, Campbell, Heinemann (Leslie), Stalzer, and
7 Steinhauer

8 FOR AN ACT ENTITLED, An Act to revise the procedure for a municipal recall petition.

9 Was read the first time and referred to the Committee on Local Government.

10 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

11 HB 1002: FOR AN ACT ENTITLED, An Act to eliminate certain reporting requirements
12 for the county general fund.

13 Was read the first time and referred to the Committee on Local Government.

14 HB 1018: FOR AN ACT ENTITLED, An Act to define certain terms related to
15 commercial fertilizer and soil amendments.

16 Was read the first time and referred to the Committee on Agriculture and Natural
17 Resources.

18 HB 1019: FOR AN ACT ENTITLED, An Act to revise certain provisions related to milk
19 sampling and grading licenses and tester and grader licenses.

20 Was read the first time and referred to the Committee on Agriculture and Natural
21 Resources.

22 HB 1020: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning fire
23 prevention and compacts related to the prevention and control of forest fires.

24 Was read the first time and referred to the Committee on Agriculture and Natural
25 Resources.

1 HB 1026: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
2 annual inspection requirement for licensed health care facilities.

3 Was read the first time and referred to the Committee on Health and Human Services.

4 HB 1028: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete
5 statutes related to the Department of Health.

6 Was read the first time and referred to the Committee on Health and Human Services.

7 **SECOND READING OF CONSENT CALENDAR ITEMS**

8 Sen. Jensen requested that SB 35 be removed from the Consent Calendar.

9 SB 23: FOR AN ACT ENTITLED, An Act to extend the time allowed for conditional land
10 exchanges.

11 Was read the second time.

12 The question being "Shall SB 23 pass as amended?"

13 And the roll being called:

14 Yeas 31, Nays 0, Excused 4, Absent 0

15 Yeas:

16 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Fiegen; Frerichs; Greenfield (Brock);
17 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
18 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peterson (Jim);
19 Rampelberg; Rusch; Shorma; Soholt; Solano; Tieszen; Van Gerpen; Vehle; White

20 Excused:

21 Curd; Peters; Sutton; Tidemann

22 So the bill having received an affirmative vote of a majority of the members-elect, the
23 President declared the bill passed and the title was agreed to.

24 SB 32: FOR AN ACT ENTITLED, An Act to codify legislation enacted in 2015.

25 Was read the second time.

26 The question being "Shall SB 32 pass?"

27 And the roll being called:

1 Yeas 31, Nays 0, Excused 4, Absent 0

2 Yeas:

3 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Fiegen; Frerichs; Greenfield (Brock);
4 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
5 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peterson (Jim);
6 Rampelberg; Rusch; Shorma; Soholt; Solano; Tieszen; Van Gerpen; Vehle; White

7 Excused:

8 Curd; Peters; Sutton; Tidemann

9 So the bill having received an affirmative vote of a majority of the members-elect, the
10 President declared the bill passed and the title was agreed to.

11 SB 52: FOR AN ACT ENTITLED, An Act to establish procedures for reporting federal
12 tax changes for purposes of the bank franchise tax.

13 Was read the second time.

14 The question being "Shall SB 52 pass?"

15 And the roll being called:

16 Yeas 31, Nays 0, Excused 4, Absent 0

17 Yeas:

18 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Fiegen; Frerichs; Greenfield (Brock);
19 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
20 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peterson (Jim);
21 Rampelberg; Rusch; Shorma; Soholt; Solano; Tieszen; Van Gerpen; Vehle; White

22 Excused:

23 Curd; Peters; Sutton; Tidemann

24 So the bill having received an affirmative vote of a majority of the members-elect, the
25 President declared the bill passed and the title was agreed to.

26 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

27 SB 1: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
28 Executive Board of the Legislative Research Council.

29 Was read the second time.

30 The question being "Shall SB 1 pass?"

1 And the roll being called:

2 Yeas 25, Nays 6, Excused 4, Absent 0

3 Yeas:

4 Bradford; Brown; Buhl O'Donnell; Cammack; Fiegen; Frerichs; Haggar (Jenna); Haverly;
5 Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Monroe; Novstrup (David); Otten
6 (Ernie); Parsley; Rampelberg; Rusch; Shorma; Soholt; Solano; Tieszen; Van Gerpen; Vehle;
7 White

8 Nays:

9 Ewing; Greenfield (Brock); Jensen (Phil); Olson; Omdahl; Peterson (Jim)

10 Excused:

11 Curd; Peters; Sutton; Tidemann

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 SB 29: FOR AN ACT ENTITLED, An Act to update the nurse practice act and to adopt
15 a new Interstate Nurse Licensure Compact.

16 Was read the second time.

17 The question being "Shall SB 29 pass?"

18 And the roll being called:

19 Yeas 31, Nays 0, Excused 4, Absent 0

20 Yeas:

21 Bradford; Brown; Buhl O'Donnell; Cammack; Ewing; Fiegen; Frerichs; Greenfield (Brock);
22 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
23 Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peterson (Jim);
24 Rampelberg; Rusch; Shorma; Soholt; Solano; Tieszen; Van Gerpen; Vehle; White

25 Excused:

26 Curd; Peters; Sutton; Tidemann

27 So the bill having received an affirmative vote of a majority of the members-elect, the
28 President declared the bill passed and the title was agreed to.

29 SB 42: FOR AN ACT ENTITLED, An Act to increase certain fees for boxing, kickboxing,
30 and mixed martial arts competitions.

31 Was read the second time.

1 The question being "Shall SB 42 pass as amended?"

2 And the roll being called:

3 Yeas 24, Nays 7, Excused 4, Absent 0

4 Yeas:

5 Bradford; Brown; Buhl O'Donnell; Cammack; Fiegen; Frerichs; Greenfield (Brock); Haverly;
6 Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Novstrup (David); Olson; Otten
7 (Ernie); Parsley; Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Tieszen; White

8 Nays:

9 Ewing; Hagggar (Jenna); Jensen (Phil); Monroe; Omdahl; Van Gerpen; Vehle

10 Excused:

11 Curd; Peters; Sutton; Tidemann

12 So the bill having received an affirmative vote of a two-thirds majority of the members-
13 elect, the President declared the bill passed and the title was agreed to.

14 **COMMEMORATIONS**

15 SC 1 Introduced by: Senators Van Gerpen, Ewing, Hagggar (Jenna), Holien, Hunhoff
16 (Bernie), Jensen (Phil), Monroe, Novstrup (David), Olson, Omdahl, Rusch, Shorma, Tieszen,
17 and Vehle and Representatives Schoenfish, Bartling, Campbell, Deutsch, Feickert, Heinemann
18 (Leslie), Hunhoff (Jean), Kirschman, Peterson (Kent), Qualm, Rasmussen, Schoenbeck,
19 Stevens, and Werner

20 A LEGISLATIVE COMMEMORATION, Celebrating and honoring Tabor's annual Czech
21 Days festivities on the occasion of its sixty-eighth anniversary on June 16, 17, and 18, 2016.

22 WHEREAS, Czech immigrants have enriched the culture of South Dakota with their
23 exceptional and traditional achievements in music, literature, and art, and are known for their
24 love of agriculture, mechanical arts, and democracy, which they strive to preserve for future
25 generations; and

26 WHEREAS, this year's Czech Days Royalty are Queen Madison Dangler, Princess Elyse
27 Torsney, and Prince Memphis Kaul; and

28 WHEREAS, Czech Days offers a variety of exhibits, attractions, events, and entertainment,
29 including the Czech Heritage Museum; Blachnik Museum; St. Wenceslaus Church; programs
30 for adults and children in Sokol Park; live Czech music in Beseda Hall; a variety of Czech
31 foods, including kolaches; a kolache baking demonstration; adult and youth parades; a craft fair;
32 a pedal tractor pull; a Tabor Bluebird baseball game; and the Rich Schild memorial fireworks
33 display to start the celebration on the evening of June sixteenth:

1 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninety-First Legislature of the
2 State of South Dakota, that the Legislature recognizes all South Dakotans of Czech ancestry and
3 invites everyone to participate in the sixty-eighth Tabor Czech Days celebration on June 16, 17,
4 and 18, 2016.

5 SC 2 Introduced by: Senators Otten (Ernie), Brown, Cammack, and Shorma and
6 Representatives Latterell, Otten (Herman), and Westra

7 A LEGISLATIVE COMMEMORATION, Honoring those from the Harrisburg, South Dakota,
8 community who acted heroically and persevered through the tragic events of September 30,
9 2015.

10 WHEREAS, on September 30, 2015, a young student shot and wounded Harrisburg High
11 School principal Kevin Lein before being subdued by the selfless and courageous actions of
12 assistant principal Ryan Rollinger and athletic director Joey Struwe; and

13 WHEREAS, first responders in law enforcement and health care rapidly arrived on the
14 scene to provide courageous and skillful assistance; and

15 WHEREAS, school officials and local agencies worked together seamlessly and efficiently
16 to protect students and to execute planned lockdown procedures; and

17 WHEREAS, the community of Harrisburg has strengthened its bonds of compassion and
18 unity to provide support for all affected by this tragedy and has proven that a community can
19 become stronger through adversity:

20 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninety-First Legislature of the
21 State of South Dakota, that the Legislature honors those from Harrisburg for their heroic and
22 courageous actions on September 30, 2015, and the Harrisburg community for its compassion,
23 unity, and support in the following days and weeks.

24 Sen. Greenfield (Brock) moved that the Senate do now adjourn, which motion prevailed
25 and at 2:54 p.m. the Senate adjourned.

26 Kay Johnson, Secretary

27 **JOINT SESSION**

28 Pursuant to the report of the Joint-Select Committee, as found on page 34 of the Senate
29 Journal, the Senate and the House of Representatives met in informal joint session in the House
30 Chamber for the purpose of having a memorial service for deceased former members and
31 reading of the following Joint Memorial Resolution:

32 WHEREAS, the Great Ruler of the Universe has ordered a final adjournment in the
33 lives of seven former members of the South Dakota Legislature, namely: the *Honorable*
34 *Walter C. Conahan*; the *Honorable Wilbur Foss*; the *Honorable Harold D. Koch*; the

1 *Honorable Walter Dale Miller; the Honorable James G. Ramey; the Honorable Thomas*
2 *Roby; and the Honorable Louise Van Gerpen; and*

3 **WHEREAS**, in the lives of all these eminent public servants there was noted a
4 profound urgency in an unselfish manner, with trials and vicissitudes often far outweighing
5 honors, but with a consciousness that here in a land of freedom the dignity of the individual
6 is supreme, that justice must be dispensed, and that only by eternal vigilance and unrelenting
7 effort can self-government of a people be preserved; and

8 **WHEREAS**, it is fitting that we humbly honor the memory of those who have thus
9 contributed to the orderly process of government under the Constitution:

10 **NOW, THEREFORE, BE IT RESOLVED**, by the Senate and the House of
11 Representatives of the Ninety-first Session of the Legislature of the State of South Dakota
12 duly convened in recess session in recognition of the useful lives and unflinching devotion to
13 the interests of the State of South Dakota, as well as the rectitude of thought and action and
14 fidelity to the highest principles of American citizenship by these honorable people, that the
15 Senate and the House of Representatives do now pause in their labors out of respect for the
16 memory of their late fellow associates in the functions of government, and note that in their
17 passing, the state they have served so well has suffered a distinct loss, and though their
18 labors have ceased and they have been laid to rest, the people of this great state have
19 benefited greatly from the services rendered by them and they have left upon the sands of
20 time an inspiring record of devotion to their fellow citizens under the guiding hand of
21 Almighty God; and

22 **BE IT FURTHER RESOLVED**, that this Resolution be printed in the journals of the
23 Senate and the House of Representatives of the Ninety-first Session of the Legislature of the
24 State of South Dakota, now assembled this 21st day of January, 2016, at Pierre, South
25 Dakota.